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JAN 4 AM 11:12 BEFORE THE FEDERAL ELECTION COMMISSION

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the Matter of

MUR 6229

Patrick Hughes for US Senate

and Bryan J. Freel, as Treasurer

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6229 as a low-rated matter.

In this matter, the complaint, filed by Louis G. Atsaves, alleges that Patrick Hughes for US Senate and Bryan J. Freel, in his official capacity as treasurer (collectively "the Committee"), violated the Federal Election Campaign Act of 1971, as amended ("the Act") by distributing campaign literature without required disclaimers.

In response, the Committee states that it distributed approximately 10,000 copies of a flyer person-to-person, by hand, to campaign supporters at campaign events. Also, none of the flyers were mailed or disseminated electronically. The Committee asserts that from the text of the flyer, which included the Committee's official name and address, and the methods of its distribution, there was no confusion that the flyer was anything other than a public communication prepared by the Committee.

1 The Committee acknowledges, however, that the disclaimers required by 11
2 C.F.R. § 110.11 were not included on the face of the flyer, but asks that the Commission
3 dismiss this matter because its failure to include required disclaimers was inadvertent, it
4 terminated distribution of the flyer after becoming aware that disclaimers were missing,
5 and it has not and will not repeat the violation.¹

6 In light of the remedial action taken by the Committee and the fact that the flyer
7 contained the Committee's name, physical address, and internet address, and in
8 furtherance of the Commission's priorities and resources, relative to other matters
9 pending on the Enforcement docket, the Office of General Counsel believes that the
10 Commission should exercise its prosecutorial discretion and dismiss the matter. See
11 *Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office intends on reminding
12 Patrick Hughes for US Senate and Bryan J. Freel, in his official capacity as treasurer, of
13 the disclaimer requirements provided in 2 U.S.C. § 441d and 11 C.F.R. § 110.11 as they
14 relate to campaign flyers.

15 **RECOMMENDATIONS**

16 The Office of General Counsel recommends that the Commission dismiss MUR
17 6229, close the file, and approve the appropriate letters. Additionally, this Office
18 recommends reminding Patrick Hughes for US Senate and Bryan J. Freel, in his official
19 capacity as treasurer, of the requirements under 2 U.S.C. § 441d and 11 C.F.R. § 110.11
20 concerning the requirement to affix appropriate disclaimers on campaign flyers.

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¹ A review of Commission records indicates that the Committee is not a recidivist.

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3/4/10
Date

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